

108TH CONGRESS }  
*1st Session*

HOUSE OF REPRESENTATIVES

{ REPORT  
108-106

NATIONAL DEFENSE AUTHORIZATION ACT  
FOR FISCAL YEAR 2004

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R E P O R T

OF THE

COMMITTEE ON ARMED SERVICES  
HOUSE OF REPRESENTATIVES

ON

H.R. 1588

together with

ADDITIONAL, DISSENTING, AND  
SUPPLEMENTAL VIEWS

[Including cost estimate of the Congressional Budget Office]



MAY 16, 2003.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

00-000

WASHINGTON : 2003

### ADDITIONAL VIEWS

We write to express our profound disappointment over the process and partisanship that characterized the mark-up of H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004.

The Armed Services Committee has a well-established record of adhering to a structured legislative process that has resulted in deliberate and fulsome consideration of major legislative initiatives. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433) and the Reserve Officer Personnel Management Act (Public Law 103-337) are just two examples of laws that resulted from a thoughtful series of committee hearings, consideration of views beyond those of the Department of Defense, and adequate time to scrutinize major proposals for change.

The committee also has stood out as one of the few remaining bastions of bipartisanship in the House of Representatives. Over the years, many contentious issues have come before the committee. From the debates over the Midgetman and MX missiles in the 1980s to allied burdensharing and building the B-2 bomber in the early 1990s to counterproliferation and peacekeeping activities more recently, Armed Services Committee members have invariably been able to work through politically charged issues. Resolving these issues has not been easy, but the atmosphere of bipartisanship, mutual respect and cordiality among members has always pervaded the committee authorization process.

The committee's historical practice has been to achieve compromise on all but the most intractably divisive measures, recognizing that national security is too important for partisanship, and that the committee's independence from the administration of the day was both its strength and its constitutional charge.

Unfortunately, the committee's consideration of H.R. 1588 has placed these traditions in jeopardy.

This year, the committee brought difficulty upon itself by accepting legislation beyond the traditional scope of a defense authorization, and then not allowing time for it to be properly considered. Over the years, the defense authorization bill has often included provisions that fall within the legislative jurisdiction of other committees. However, the inclusion in this bill of provisions dramatically changing our civil service laws and rewriting major environmental laws without limited application to the Department of Defense is extraordinary if not unprecedented. Equally troubling is that the Armed Services Committee held fewer than five hearings on the Department's "transformation" proposals, and two of those were on short notice or on a day when the House was not in session. These legislative proposals were submitted to Congress barely a month before the Committee marked up H.R. 1588 and immediately before a two week House recess period. The actual text of the language in this bill was available for Members to review just

a few days before mark up. Consideration of such broad, sweeping policy changes on short notice, with scant opportunity for review, is a dramatic departure from the Committee's history of careful, deliberate evaluation of significant legislation. This process will not produce prudent policy. Our committee has not operated in this fashion in the past, and consideration of the Department's "transformation" proposals warranted more thoughtful review in this instance. There was no committee interest in including this legislation in the authorization bill rather than a separate vehicle, and no committee interest in hastening its consideration. We urge the committee to return to its history of regular order process as we undertake future legislation.

The deterioration in bipartisanship, a hallmark of the Armed Services Committee's operations for decades, was evidenced in the mark up of H.R. 1588. During the 24-hour mark up of this bill, there were 29 roll call votes, and almost all of them were straight party-line or mostly party-line. Moreover, during consideration of the first and most important amendment to the civil service provisions in the bill—the most contentious aspect of this legislation—the previous question was moved in an effort to curtail debate. Both of these occurrences are unprecedented in the modern history of this committee, and we hope that they do not portend a sea change in the way this committee conducts its business. They are, however, symptoms of an underlying deterioration in the committee's legislative process.

It is axiomatic that the legislative process is consultative, and compromise among the parties is key to crafting sound policy that will stand the test of time. The Armed Services Committee's historical bipartisanship is a testament that consultation and compromise work. The mark up of this bill suggests a pronounced decline in these areas. Symptomatic of this decline was the series of three party-line roll call votes to the Service Acquisition Reform Act provisions in the bill. These provisions were included in the bill without consultation. The subject matter was not so inherently partisan that compromise should have been out of the question. Resolution of policy differences should have been easily attained without defaulting to a partisan outcome.

The motion for the previous question is equally disturbing. After full and substantive debate on myriad amendments throughout this mark-up, moving the previous question during the first amendment on the subject of greatest concern to the minority sends a signal of intolerance and unwillingness to respect or even hear opposing views, despite the fact that those views are widely and sincerely held by many members of the Committee. Such action is highly uncharacteristic and disappointing. Despite many contentious and partisan battles on issues in the past, not one member can recall a single instance in which the previous question has been moved during debate on an amendment in this committee. We view this development with sadness and regret.

The universal aim of members who serve on this committee, Republican and Democrat, is to enact policies to provide for our national security. We all endeavor to ensure that the men and women who serve in our military and make such great sacrifices for our nation have the training, equipment and means to best protect our

country. Attaining our mutual goals should not be a partisan enterprise, certainly not to the extent reflected in this bill and in this mark-up. We strongly urge a careful rethinking of the approach the committee has taken so far this year. A decline in one of the paragons of bipartisanship and collegiality in the House—the Armed Services Committee—will occur if this trend continues. Damage to the wisdom of our defense policy will be the unfortunate and inevitable long-term result for the country.

IKE SKELTON.  
JOHN SPRATT.  
GENE TAYLOR.  
LANE EVANS.  
MARTY MEEHAN.  
NEIL ABERCROMBIE.  
SILVESTRE REYES.  
CIRO D. RODRIGUEZ.  
VIC SNYDER.  
LORETTA SANCHEZ.  
SUSAN A. DAVIS.  
RICK LARSEN.  
JIM COOPER.  
BARON P. HILL.  
ELLEN O. TAUSCHER.  
JOHN B. LARSON.  
KENDRICK B. MEEK.  
JIM LANGEVIN.  
TIM RYAN.  
ADAM SMITH.  
ROBERT A. BRADY.  
RODNEY ALEXANDER.  
JIM TURNER.  
STEVE ISRAEL.  
MADELEINE Z. BORDALLO.  
MIKE MCINTYRE.  
SOLOMON P. ORTIZ.  
JIM MARSHALL.